



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

Memorandum

Date: November 9, 2015

To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **The Monahan Companies (petitioner) and Merrimack Premium Outlets, LLC. (owner)** – Variances under Section 2.02.4(D) of the Zoning Ordinance to permit a mixed use development Conditional Use Permit (CUP) to be sought from the Planning Board on a lot in the I-2 District; Section 2.02.4(D)(1)(a) to permit a mixed use CUP to be sought from the Planning Board on a lot with less than 50 acres, and Section 2.02.4(D)(1)(d) to permit a mixed use CUP to be sought from the Planning Board on a lot without 500 feet of contiguous frontage on the State maintained portions of Daniel Webster Highway. The parcel is located on 10 Premium Outlets Boulevard in the I-2 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lot 191-02. Case # 2015-42.

The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

Background:

The subject parcel, Tax Map 3C, Lot 191-02, is approximately 20 acres in size and is located at 10 Premium Outlets Drive (at the corner of Industrial Drive and Continental Blvd) in the I-2 (Industrial) and Aquifer Conservation Districts and Wellhead Protection Area. The site is the vacant "pad site" to the Merrimack Premium Outlets (MPO), which was conceptually envisioned (prior to MPO's construction) to contain a hotel and restaurants. The site has access to water from Merrimack Village District and municipal sewer. It is abutted by the MPO development northeast, residential uses to the north, Fidelity Investments to the south, and commercial/industrial development (including Dunkin Donuts and Atrium Medical) to the west.

The petitioner seeks to develop the property as a mixed use project under the provisions of Section 2.02.4(D) of the Zoning Ordinance. Variances are necessary from 3 portions of the Ordinance, as the Ordinance currently only permits mixed use developments to seek a Conditional Use Permit from the Planning Board when the parcel is in the I-1 District, containing a minimum of 50 acres, and having 500 feet of continuous frontage on the State-maintained portion of DW Highway. This petition does not meet these requirements, since it is in the I-2 District, contains only approximately 20 acres, and is not located on DW Highway. Staff does note that the Town's most recent Master Plan does contemplate the development of mixed use projects beyond that which is

currently in the Zoning Ordinance; however, regulatory changes to enact those recommendations from the Master Plan have not yet been developed.

The petitioner's proposal, according to their narrative description, "is a modern mixed-use concept where some of the buildings include retail on the first floor and office or residential uses on the upper floors." The proposed mixed use development would include a 120-room hotel with an event center, up to 150,000 SF of restaurants and supporting retail (proposed on the ground floor of the buildings), up to 120 residential units and 165,000 SF of office space (on four upper floors). Parking would be provided both with surface parking within the development and in a 1,150-car parking structure.

It is important to note that the requested variances are only the first step in what would be a multiple step review and approval process (should the variances be granted). The Planning Board would then have to grant a Conditional Use Permit to allow for mixed use development of the site, and then the Planning Board would also have to review and approve individual site plans for the various phases of the development prior to any construction taking place on the site.

Standard of Review: It is the burden of the Petitioner to demonstrate that the five requirements for the granting of the 3 Variances have been met:

- Under Section 2.02.4(D) of the Zoning Ordinance to permit a mixed use development Conditional Use Permit (CUP) to be sought from the Planning Board on a lot in the I-2 District;
- Under Section 2.02.4(D)(1)(a) to permit a mixed use CUP to be sought from the Planning Board on a lot with less than 50 acres; and
- Under Section 2.02.4(D)(1)(d) to permit a mixed use CUP to be sought from the Planning Board on a lot without 500 feet of contiguous frontage on the State maintained portions of Daniel Webster Highway.

Staff recommends that should the Board vote to grant the variances that they be granted with the following conditions *(the Board can choose to treat each variance separately, or, if the Board is comfortable with doing so, combining them into one motion/vote. If the Board chooses to vote on each separately, and grant the petitions, the recommended conditions should be attached to all 3 variance requests):*

- The petitioner shall obtain approval for a Conditional Use Permit from the Planning Board to allow the site to be developed in accordance with the Mixed Use Conditional Use Permit requirements of Section 2.02.4(D) of the Zoning Ordinance; and
- The petitioner shall obtain all necessary site plan and subdivision approvals from the Planning Board that are necessary following approval of the Mixed Use Conditional Use Permit.

cc: Correspondence & Zoning Board File

ec: The Monahan Companies, Petitioner
Danielle DeVita, Merrimack Premium Outlets, LLC, Owner
Thomas J. Leonard, Welts, White & Fontaine, P.C.
Gordon Leedy & Mark Verostick, VHB
Carol Miner and Fred Kelley, Building Department